

### **Remarks**

In the Office Action, the Examiner indicated that claims 1 through 26 are pending in the application and the Examiner rejected all claims.

### **The Present Invention**

The present invention provides a system and method for predicting the likelihood of materialization of pending reservations for the purchase of a particular perishable commodity, which system and method provides for the gathering and analysis of system-wide reservation information pertaining to perishable commodities for which reservations for purchase have been made in the past, including such information that is unrelated to the particular perishable commodity. Reservation information pertaining to the particular perishable commodity for which reservations for purchase are currently pending is also gathered, and then the likelihood that the particular pending reservation will actually be purchased or “materialize” is determined based on a comparative analysis between the gathered system-wide past reservation information that includes information unrelated to the particular perishable commodity and the reservation information pertaining to the particular perishable commodity.

The term “reservation information” (both past and current) is clearly defined in the specification of the present invention as including commodity details, demographic information, and/or POS information relating to past or current reservations for perishable commodities. The past reservation information is directed to all reservations that have been made, i.e., it is not focused on a specific flight or other specific commodity; instead, it is

related to all available commodities, including those unrelated to the currently pending reservation, and one of the novel aspects of the present invention is the determination of likelihood of materialization based on the unrelated reservation information.

The use of system-wide past reservation information unrelated to the current pending reservation is expressly disclosed on pages 16, line 12 through page 17, line 10 of the specification, reprinted as follows:

“Thus, in contrast to the prior art systems, which simply compares the past booking history of, e.g., Flight 250 from Philadelphia to London, the present invention examines *all* flights which have similar characteristics to those of the current reservation, not just Flight 250. For example, assume that over the past two years the reservations for Flight 250 from Philadelphia to London have a materialization rate of 60%. Assume further that the current reservation request for Flight 250 being processed by current reservation processor 316 is for a non-stop, Philadelphia-to-London flight, pleasure travel, two adults and one child, one month from reservation to travel date, payment made by credit card at time of reservation, reservation made by direct contact between the consumer and the airline. Using the present invention, the data warehouse 300 is searched for *all* previous reservations having the same attributes, and the materialization information for *all* past reservations that have the same attributes is evaluated. Based on this information, if it is determined that reservations of this type have a 98% materialization rate, this factor is applied to the current reservation, using the yield management system 314 in a well-known manner. Using the prior art systems and methods, Flight 250 would be overbooked to 140% capacity to cover the historical tendency of this flight to have only a 60% materialization rate; with the present invention, however, each reservation for the current flight will be weighted based on *its* tendency to materialize, and a much more accurate booking will result.”

By gathering and analyzing data relating to the reservations on a global basis in this manner, characteristics of purchasers, commodities, and types of purchases can be analyzed

and identified and utilized to characterize reservations generally and the people who made them, rather than specifically characterize one particular commodity (e.g., a particular flight).

**U.S. Patent No. 4,775,936 to Jung**

U.S. Patent No. 4,775,936 to Jung (“Jung”) teaches a system which tracks the frequency with which a particular flight experiences overbooking or underbooking, and based on this statistical analysis, increases the point at which that particular flight is considered “closed” to a number greater than 100% of capacity of the aircraft, with the exact percentage greater than 100% being based upon the historical data for that flight. As set forth in the present application, Jung is an example of prior art systems which focus on the history of a particular flight and does not take into consideration the people who made reservations on that flight, characteristics of people who made reservations on that flight, and most particularly, analysis of system-wide data pertaining to people who made reservations for other flights unrelated to that particular flight. Rather, Jung gathers reservation information pertaining to past reservations that are related to the particular flight in question (e.g., earlier occurrences of the same scheduled flight), and uses the related historical information to predict the likelihood of materialization.

**Rejection of the Claims under 35 U.S.C. §§102(b) and 103**

On page 2 of the Office Action, the Examiner maintained the rejection of claims 1-2 and 14-15 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,775,936 to

Jung. The Examiner also maintained the rejection of claims 3-13 and 16-26 under 35 U.S.C. §103.

Applicant appreciates the position of the Examiner with respect to the prior rejections of the claims. Applicant believes that the current claims clearly articulate the differences between the prior art and the claimed invention. If the Examiner is of the opinion that the present claims do not make these distinctions, applicant respectfully requests that the Examiner contact the undersigned attorney for the purpose of discussing possible modifications to the claims to place them in condition for allowance.

The law on anticipation is clear and well established. For a reference to anticipate an invention under 35 U.S.C. §102, each and every element set forth in the claims must be found, either expressly or inherently, in that reference. Stated another way, if there are claimed elements of an invention that are not found in a prior art reference, then that prior art reference cannot anticipate that claim.

Applicant clearly has improved upon prior art methods of predicting the materialization of reservations for commodities. The Jung system, which is typical of many materialization systems, focuses only on historical data directly related to the commodity in question, for example, in the case of a particular flight from Washington to Paris, Jung will look at the historical tendencies of previous reservations for the same flight from Washington to Paris and then, based upon the historical results for that particular flight, increase or decrease bookings for a pending occurrence of that particular flight as appropriate. As stated previously, the present invention achieves more accurate results by, instead of focusing on the particular

reservation for the particular commodity, focusing on characteristics of purchasers and other reservation attributes that have or have not resulted in materialization, and then analyzing the attributes of the pending reservation to see if these attributes point to a tendency to materialize or not materialize. In other words, in accordance with the present invention, reservation information unrelated to the particular pending reservation is analyzed so that, for example, factors such as the time between the making of a reservation and the materialization of the reservation can be isolated and analyzed, regardless of, in the context of airline flights, which particular flight the prior reservation was for.

The question now remaining is whether or not the currently pending claims clearly recite these novel elements. Applicant submits that the current claims, as amended, do indeed distinguish the differences between the cited prior art and the claimed invention and point out with particularity the fact that the present invention analyzes past reservation information that is unrelated to the particular reservation that is currently pending. Each of the independent claims recite these novel elements, and thus, all of the pending claims (including those that depend from the independent claims) patentably define over the prior art.

Regarding the §103 rejections, neither the addition of Eldering or Whitesage teaches or suggests the above-recited novel elements, and nothing in Jung suggests modifying its disclosure to include features that are taught in Eldering and/or Whitesage to achieve the claimed elements. As noted previously, the Examiner relies upon Eldering for an asserted teaching of demographic information and point-of-sale information a customer profiles system used for advertising. Nothing in Eldering teaches or suggests the use of past system-wide

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reservation information unrelated to a current pending reservation as taught and claimed in the present invention.

Likewise, as noted previously, the Examiner relies on Whitesage for an asserted teaching of the user of POS information including booking carrier, booking recency, and fare code information in a reservation system. Nothing in Whitesage teaches or suggests the use of past system-wide reservation information unrelated to the current pending reservation as defined and claimed in the present invention. Accordingly, the proposed combination of references indicated by the Examiner does not render the remaining claims obvious under 35 U.S.C. §103.

### Conclusion

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited. The Examiner is hereby authorized to charge any fees associated with this Communication to Deposit Account No. 09-0457. A duplicate of this Communication is enclosed for charging purposes.

Respectfully submitted,

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